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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,548	12/11/2003	Hans Kappelhoff	09209-US	7747
7590	11/28/2005		EXAMINER	
DARIN E. BARTHOLOMEW PATENT DEPT. DEERE & CO. ONE JOHN DEERE PLACE MAINE, IL 61265			KOVACS, ARPAD F	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/733,548	KAPPELHOFF, HANS
Examiner	Art Unit	
Árpád Fábián Kovács	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 11 July 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-6 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-6 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Rauch (6119443).

Rauch discloses:

cl. 1:

a gathering and picking device comprising:

a picking gap (8) defined by a stripper plate (7) having a length & first & second sides;

a first gathering element on the first side (left most disk 1) provided with carrier element (see col. 3, ln 23-28);

a second gathering element on the second side (disk 1, right of the first disk);

a picking unit (roller 10; capable of pulling the stalks downward so the useful parts are removed, col. 3, ln 49-50);

cl. 2:

the gathering elements capable of introducing the plants into the picking gap;

cl. 4:

the elements are driven inherently synchronously;

cl. 5:

the carrier elements are angularly offset from each other, for example in the left most disk (element) carrier element at the corner of divider ref 2 is angularly offset from the carrier element of the right disk's carrier element that is near roller ref 11;

cl. 6:

since in col. 3, ln 23-28, the conveying disks / first & second gathering elements are used for conveying & holding stalk in the recesses ref 3, therefore the first & second gathering elements are designed for conveying as claimed, i.e. capable of conveying in the manner claimed.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolters et al (US 2001/0003237 A1).

Wolters discloses:

cl. 1:

a feeding & picking device (10) comprising:

a picking gap / snapping channel (26) defined by a stripper plate / snapping bar (24) having a first & second sides (upper & lower sides) & a length (see fig 13);  
a first (14) & second (16) gathering with carrier elements (44 & 46) on the first & second sides respectively rotated about a first & second single axis (as shown by the upper single axis and lower single axis in fig 6);  
a picking unit / snapping roll (18 or 20);

cl. 2:

the first & second gathering elements are designed for carrying out the function recited in the claim;

cl. 3:

the first & second gathering elements have overlapping envelopes (see fig 6);

cl. 4:

the first & second gathering elements are synchronously driven (see fig 6);

cl. 5:

the carrier elements of the first & second gathering elements are angularly offset  
(see fig 6)

cl. 6:

the picking gap has an effective length and the first & second gathering elements  
are designed for conveying the plants along the effective length of the picking gap (§  
47).

*Response to Arguments*

4. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment to claim "first single" & "second single" axes have been noted and view of that a new rejection is made, as detailed above.

*Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács  
Primary Examiner  
Art Unit 3671

ÁFK